

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA  
SAVANNAH DIVISION**

IN THE MATTER OF:	)	
	)	
YELLOW BLUFF DEVELOPMENT, LLC	)	CHAPTER 11 CASE NO. 09-40019-JSD
	)	
Debtor	)	
	)	

**APPLICATION FOR LEAVE TO SELL REAL PROPERTY AT PRIVATE SALE**

1. **Yellow Bluff Development, LLC**, debtor and debtor in possession in the captioned case, (“Applicant”), does hereby apply to the Court for leave to sell at **PRIVATE SALE** the following described parcel of real property and the improvements thereon:

**All that certain lot, tract or parcel of land situate, lying and being in the 1359<sup>th</sup> G.M. District of Liberty County, Georgia, being known and designated as Lot No. 86 Yellow Bluff Subdivision, containing 0.20 of an acre, more or less, as shown and represented on that certain plat of survey made and prepared by Joe P. Davis, Georgia Registered Land Surveyor No. 1436, bearing a survey date and plat date of January 13, 2011, and being recorded in Plat Section P-13, Page 1A, in the office of the Clerk of Superior Court of Liberty County, Georgia, said plat by specific reference is made a part hereof for descriptive and all other purposes. Said lot of land being bounded, now or formerly, as follows: Northerly by 60’ R/W of Ashley Creek Drive; Easterly and Southerly by lands n/f Yellow Bluff Development; and Westerly by lands n/f Frank A. Hill & Georgia B. Hill, all as shown on the above referred to plat of survey.**

***This property is commonly known as 79 Ashley Creek Drive, Midway, Georgia.***

2. Applicant requests Court approval to sell this property at **PRIVATE SALE** to **Mike E. Howard and Natalie P. Howard**, for **\$500,000.00**, cash, free and clear of liens, with valid liens only to attach to the proceeds of the sale. (A deposit of \$250,000.00 was paid to Applicant on February 13, 2008, upon execution of the Purchase and Sale Agreement)
3. Applicant states the property is fully encumbered by a first deed to secure debt in favor of The Heritage Bank<sup>1</sup>.

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<sup>1</sup>The Heritage Bank’s claim in this matter is in excess of \$13,000,000.00.

4. Applicant shows there are (estimated) ad valorem taxes due to Liberty County Tax Commissioner for 2006, 2007, 2008, 2009 and 2010 in the amount of \$10,571.43, and pro-rated and due for 2011 in the amount of \$785.00. (Exact payout will be the amount due and owing the claimant at time of closing, and will be paid in full at such time).
5. Applicant states there is no sales commission due on this sale.
6. A copy of the Purchase and Sale Agreement underlying the proposed sale is attached hereto as Exhibit "A", and the terms and conditions contained therein are hereby incorporated by reference.
7. The proposed sale is for fair market value, Applicant considers such sale to be in the best interests of the estate and creditors, and accordingly, that it should be approved.
8. Applicant requests that notice be given to creditors and parties in interest of this application for leave to sell and that the Court direct that objections and requests for a hearing before the Bankruptcy Judge, if any, to the sale as proposed, must be in writing and filed with the Clerk of the Bankruptcy Court, Post Office Box 8347, Savannah, Georgia 31412, and served upon the Applicant's attorney, James L. Drake, Jr., at Post Office Box 9945, Savannah, Georgia 31412, within such time as the Court shall fix, and further that any objections not timely filed and served be deemed waived.
9. Applicant further requests that the Court in its discretion take such other action or provide such other relief as it deems equitable or appropriate.

**DATED** at Savannah, Georgia, this 16th day of February, 2011.

s/ James L. Drake, Jr.

JAMES L. DRAKE, JR.

Attorney for Yellow Bluff Development, LLC /  
Applicant

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**CERTIFICATE OF SERVICE**

This is to certify that I have this date served the foregoing, **APPLICATION FOR LEAVE TO SELL REAL PROPERTY AT PRIVATE SALE**, through CM/ECF or by depositing same in the United States Mail with sufficient postage affixed thereon, to those addressed below:

Matthew E. Mills  
Asst. U.S. Trustee  
Commerce Building  
222 W. Oglethorpe Ave., Ste. 302  
Savannah, GA 31401

The Heritage Bank  
Attn: Jim Floyd  
P.O. Box 1009  
Hinesville, GA 31310

This the 16th day of February, 2011.

s/ James L. Drake, Jr. \_\_\_\_\_  
JAMES L. DRAKE, JR.  
Attorney for  
Yellow Bluff Development, LLC

Prepared by:  
JAMES L. DRAKE, JR.  
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